

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 199 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE K.J.VAIDYA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

PATEL MADHAVLAL SHANKARLAL

Appearance:

MR. BD DESAI, APP for the appellant.

MR PN BAVISHI for Respondent No. 1

CORAM : MR.JUSTICE K.J.VAIDYA

Date of decision: 18/03/97

ORAL JUDGMENT :

This appeal by the State of Gujarat is directed against the impugned judgment and order dated 6-1-1989, rendered in Criminal Case No. 1170/85, by the learned Chief Judicial Magistrate, Mehsana, wherein the

respondent-Patel Madhavlal Shankarlal, who came to be tried for the alleged offences punishable under sections 454 and 380 of IPC, at the end of the trial, ordered to be acquitted.

2. To briefly narrate the prosecution case, according to the complainant - Meman Shafimahmad Rasulmahmad, he was having a shop situated at Mehsana. On 20-1-1985, at 17-00 Hrs. the respondent broke open the lock and committed theft of the articles lying in the shop to the tune of Rs.5,000/- by making a trespass. on the basis of this fact, the complaint came to be filed, wherein after the investigation was over, the accused came to be chargesheeted for the alleged offences to stand trial before the learned Magistrate. According to the prosecution, this incident was witnessed by three witnesses viz. (1) PW-2- Jasvantsinh Bhavanji; (2) PW-3-Santokben Shivsangji; and (3) PW-5 Ikbai Rasalbhai. At the trial, the respondent pleaded not guilty and claimed to be tried. The trial court after duly appreciating evidence brought on the record, acquitted the accused, giving rise to the present appeal.

3. Mr. B.D.Desdai, the learned APP while challenging the impugned judgment and order of acquittal has taken this court to the evidence of the material prosecution witnesses and the reasons for acquittal given by the trial court. On being straightway questioned as to how the reasons given by the learned Magistrate in paras 7 to 15 of the judgment were in any way perverse, he was unable to explain the same. Infact, on going through the evidence brought on record, by no stretch of evidence it can be said that the reasons given by the trial court are in any way illegal and perverse calling for any interference by this court. Since this court is in general agreement with the ultimate view taken by the learned Magistrate, I do not deem it necessary either to reproduce and reappreciate the evidence of the material witnesses or the reasons given by the learned Magistrate while reaching to the ultimate conclusion. In this view of the matter, there is no alternate left with this court but to confirm the impugned judgment and order of acquittal.

4. In the result, this appeal fails and is dismissed.

